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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/667,010 | 09/19/2003 | Madhu C. Patel | 03-0976 | 9133 |
| 7590 | 03/13/2007 | | EXAMINER | |
| LSI Logic Corporation Corporate Legal Department Intellectual Property Services Group 1551 McCarthy Boulevard, M/S D-106 Milpitas, CA 95035 | | | INGBERG, TODD D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2193 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 03/13/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/667,010 | PATEL ET AL. |
| | Examiner | Art Unit |
| | Todd Ingberg | 2193 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 December 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) 5-9 is/are allowed.
6) Claim(s) 1-4 and 10-17 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12/29/06 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date .
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application
6) Other: _____

DETAILED ACTION

Claims 1 – 17 have been examined.

Claims 1 – 17 have been amended.

Drawings

1. New Figures 1 and 2 have been accepted.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 4, 10 - 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the final result of the claim is estimate, which is not a tangible result because result is not clearly claimed to be tangibly embodied on a computer readable medium. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

http://www.uspto.gov/web/offices/pac/dapp/ola/preognote/guidelines101_20051026.pdf

The following will provide information by each independent claim on how to overcome the rejection under 35 U.S.C. 101.

Claim 1 - Method – The method should be computer implemented. Currently, the specified software is the focus of the estimate not what is executing the invention. The invention as claimed could be performed by pencil and paper.

Claim 5 – Method – Passes 101 because the invention (method) is being executed on a computer.

Claim 10 – System – Although, the processing components make a determination the determination is not stored/written/updated/displayed in a computer readable medium. At the end of the claim the verb indicating could be replaced with an action word that results in the storing or displaying as mention above.

Claim 13 – Product - The final result in the end of the claim if stored/written/displayed etc., on a computer readable medium the rejection would be overcome.

Allowable Subject Matter

3. Claims 5 – 9 are allowed.
4. Applicant's Response of December 29, 2006 was well formulated and well written and is deemed persuasive. The response is the Reasons For Allowance.

Examiner's Comment

5. The Applicant should amend the independent claims under 35 U.S.C. 101 and submit the amendment After Final. Applicant also RightFax the Examiner prior to submitting (unsigned) for review if they wish. Examiner's RightFax number is 571 273-3723.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Ingberg whose telephone number is (571) 272-3723. The examiner can normally be reached on during the work week..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Todd Ingberg
Primary Examiner
Art Unit 2193

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